

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA

Sherard N. Brown, D-125,

Plaintiff,

v.

**Jack D. Howle, Public Defender; and
Solicitor for Third Judicial Circuit,**

Defendants.

C.A. No. 4:05-1511-CMC-TER

OPINION AND ORDER

Plaintiff in this matter is a *pro se* pre-trial detainee at the Sumter-Lee Regional Detention Center. Plaintiff has filed an civil rights action in letter form. In accordance with the court's order of reference, 28 U.S.C. § 636(b), and Local Rule 73.02 (B)(2)(b), (d), and (e), DSC, this matter was referred to United States Magistrate Judge Thomas E. Rogers, III, for pre-trial proceedings and a Report and Recommendation.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight, and the responsibility to make a final determination remains with the court. *See Mathews v. Weber*, 423 U.S. 261 (1976). The court is charged with making a *de novo* determination of any portion of the Report and Recommendation of the Magistrate Judge to which a specific objection is made. The court may accept, reject, or modify, in whole or in part, the recommendation made by the Magistrate Judge or recommit the matter to the Magistrate Judge with instructions. *See* 28 U.S.C. § 636(b).

On June 21, 2005, the Magistrate Judge issued a Report recommending that this case be dismissed without prejudice and without issuance and service of process.

The Magistrate Judge advised Plaintiff of the procedures and requirements for filing objections to the Report and Recommendation and the serious consequences if he failed to do so.

In response to the Report and Recommendation, Plaintiff has filed a letter indicating that he objects because there is no law library at the Sumter-Lee Regional Detention Center in order for him to research his case and requests the case be continued and that an attorney be appointed to research his case.

The court has reviewed Plaintiff's response and has concluded that Plaintiff's objections seek delay and appointment of counsel but that the case is patently frivolous. After considering the objections, the record of this matter, the applicable law, and the Report and Recommendation of the Magistrate Judge, the court agrees with the conclusions of the Magistrate Judge. Accordingly, the court adopts and incorporates the Report and Recommendation by reference in this Order.

IT IS THEREFORE ORDERED that this matter is dismissed without prejudice and without issuance and service of process.

IT IS SO ORDERED.

s/ Cameron McGowan Currie
CAMERON MCGOWAN CURRIE
UNITED STATES DISTRICT JUDGE

Columbia, South Carolina
July 19, 2005

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